

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6947 of 1985

with

SPECIAL CIVIL APPLICATION No 6463 of 1986

Date of decision: 3-3-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GANDHINAGAR MAJOOR KAMDAR KALYAN MANDAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6947 of 1985
MR YS MANKAD for Petitioner
MR Samir Dave for Respondent No. 1
MR JAYANT P BHATT for Respondent No. 4
2. Special Civil Application No 6463 of 1986
MR YS MANKAD for Petitioner

MR Samir Dave for Respondent No. 1
MR JAYANT P BHATT for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE
Date of decision: 3-3-1997

CAV JUDGEMENT

As the facts and grounds given in both these petitions are common, these special civil applications are being decided by this common order.

Special civil application No.6463/86 was directed to be heard with special civil application No.6947/85, which was admitted by this Court on 26th December, 1985.

Spl.C.A. 6947/85:

2. This petition has been filed by Gandhinagar Majoor Kamdar Kalyan Mandal, Gandhinagar, a registered public trust, through its President. Petitioner Mandal has about 500 members. All the members of the petitioner Mandal are residing in chapras and hutments in various sectors at Gandhinagar. They are labourers and safai workers, lower Government employees, vendors, vegetable sellers, domestic servants, etc., They belong to weaker section of the society. The petitioner made request to the respondents for allotment of land for construction of huts for its members, under the Twenty Point Programme. Land was given for about 100 huts, and hutments were regularized. But there are about 500 hutment dwellers whose huts are to be regularized. Various applications were made by the petitioners to the Government, and suggestion was made that the land of about 7 acres in sector 24 may be given; but the Government wanted to give land in Kudasan Village. The matter is said to be under consideration and the then member of legislative assembly from Gandhinagar Shri Kasam Bapu Limbadiawalla is said to be handling the matter with the Government. Further facts revealed are that as early as on 30th January, 1983 Vankar Khengarbhai and others had requested for allotment of land for chhapras at Gandhinagar. The Jilla Ayojan Adhikari, under his letter dated 1st March, 1983, asked the Collector to submit report for allotting lands to the labourers. Reply came from Section Officer, vide letter dated 22nd June, 1983 stating that the Gujarat Housing Board had published advertisement, and applications for housing should be made. Since no progress was made, representation dated 26th December, 1983 was made to the Chief Minister and various authorities for allotment of land. Meanwhile, the Collector threatened to demolish

the huts. Representation was made by the petitioner on 17th May, 1984 to Kokilaben Vyas, the then Minister for Health and Housing not to demolish about 1000 huts. Complaint has also been sent to the Chief Minister about the forceful demolition of huts by the Police, which has been acknowledged under letter dated 18th November, 1985, and assurance was given that the Collector is being asked to re-inquire into the matter and to follow proper procedure. Even then threats continued. On 28th November, 1985 the petitioner again requested the Chief Minister to order for stopping the demolition, as some huts were demolished. Similar request was made on 1st December, 1985 to Shri Dolatbhai Parmar, by Kasam Bapu, M.L.A. Despite all these efforts, respondent No.3 has demolished about 200 huts.

3. The petitioners have come up with the case that these huts are there since the year 1972. Though assurances were given and the matter was pending for consideration before the Collector and the State Government, on 28th November, 1985 respondents' men came threatening that they would demolish the huts on 30th November, 1985. At the instance of M.L.A. Shri Kasam Bapu the officers have stayed their hands in the matter, but on 19th December the petitioner was asked to bring stay order by 20th December, 1985 as otherwise the hutments will be demolished. Hence the present petition.

4. This petition came up for admission before this court on 19th December, 1985, and this Court passed the following order:

"Notice pending admission returnable on
26-12-1985. Direct service.
Ad interim relief in terms of para 7(B)"

On 26th December, 1985 this court passed the following order:

"Rule.

Though served, no one appears on behalf of the respondents. Ad interim relief granted earlier to continue till further orders."

The prayer made in para 7(B) of the petitioner reads as under:

"Pending hearing and final disposal of this petition an ad-interim injunction be issued restraining the respondents, their servants and agents and subordinates from demolishing the

hutments situated in the above sectors at Gandhinagar."

On December 21, 1985 the petitioner met the Chief Minister and gave copies of the petitioner and the stay order. The Chief Minister asked the petitioner, whether, if land is allotted in village Kudasan, instead of sector 24, it is acceptable, to which the petitioner agreed. The petitioner prayed for amendment of the special civil application which was granted by this court on 11-9-1986. Further prayer has been made for restraining the respondents and their servants from demolishing the hutments and chhapras in sectors 20, 22 and 24. Reply to this special civil application has been filed. The petitioner filed rejoinder to the reply.

Spl.C.A.6463/86:

5. This petition has been filed by Gandhinagar Saher Jilla Deenbandhu Congress through its President. The petitioner has come up with the case that it is a trade union and association of persons, namely, weaker sections of the State, residing in chhapras, residential huts, zupadas - at Gandhinagar in sector No.24, and most of its members are labourers, P.W.D. workers, lower Government staff, saffai-kamdar and other daily wage earners, such as carpenters, masons, plumbers, domestic servants, drivers, hawkers, etc., In sector No.24, Gandhinagar, in the year 1973 only 141 hutments were regularized leaving about 50 chhapras in the common plot within the wall and about 200 chhaparas outside the wall popularly known as Indiranagar. Several representations were made to the Government for regularizing these chhaparas and hutments. On repeated requests the State Government assured them that they will regularize these hutments and grant plots to the persons for occupying the same. The petitioners have come up with the case that in implementation of the Twenty Point Programme, these chhaparas were to be regularized. For about 12 years these hutment dwellers are demanding justice. Various ministries promised to do justice, but the file remained standstill, pending decision at the Secretariat. Off and on the petitioners were meeting the P.W.D. Minister and the Chief Minister. Except assurances nothing has turned out.

6. On 17th December, 1986 respondent No.3 tried to demolish the hutments with the help of P.W.D. staff and police, without any previous notice and without following any procedure, and about 3/4th of the chhaparas were razed to ground. The President of the petitioner, along

with several other hutment dwellers went to meet the Chief Minister along with local M.L.A. and complained about the high-handed action. However, the Chief Minister, being busy, could not give any appointment, but he sent instructions that he would look into the matter, and in the meanwhile the demolition work will be stopped for few days. Hence he present petition.

7. The petition came up for admission on 19th December, 1986, and this Court passed the following order:

"Notice returnable on 29-12-1986.

Ad interim relief to maintain status quo till
30-12-1986. D.S."

On 29th December, 1986 this court passed the following order:

"To be heard with special civil application
No.6947/85, along with C.A. in that matter.
Status quo to continue."

This court passed the following order on 9th February, 1989:

"Rule. To be heard with S.C.A. 6947/85. Interim
relief to continue."

In this case, no reply has been filed by the respondents.

8. Having heard the learned counsel for the parties, and having gone through the special civil application, and keeping in view the fact that for all these years the interim relief granted by this court has continued to operate, and the members of the petitioner Trust in one case and members of petitioner Mandal in another case are continuing to occupy the hutments at the site in question, I think it proper that the interest of justice would be served in case these special civil applications are disposed of with direction to respondent No.1 to decide the matter of regularization of the hutments/chhaparas on the lands in question in accordance with law.

9. In the result these special civil applications are disposed of with the direction that respondent No.1 shall decide the matter of regularization of the hutments/chhaparas on the lands in question within a period of three months from the date of receipt of certified copy of this order. While deciding the matter, the representatives of the petitioners in both the petitions shall be given an opportunity of hearing. In case the request of the petitioners for regularization of the hutments/ chhaparas is not acceptable, a reasoned

order shall be passed and copy thereof shall be sent to the petitioners by registered post. It is expected of respondent No.1 to make all endeavours to see that only real and bona fide persons who were there at the site before 1972 are given relief. Till the matter is decided by respondent No.1, the interim relief granted by this court in both the petitions shall continue to operate. Subject to the aforesaid directions, rule stand discharged in both the petitions. No order as to costs.

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